

CITY OF BUFFALO URBAN RENEWAL AGENCY PROPERTY DISPOSITION GUIDELINES

Re-Adopted June 23, 2016

The City of Buffalo Urban Renewal Agency ("BURA") is required by Title 5-A, Section 2896 of the New York Public Authorities Law to adopt by resolution comprehensive guidelines regarding the use, awarding, monitoring and reporting of contracts for the disposal of Property (the "Guidelines").

Pursuant to the requirements of the New York Public Authorities Law, BURA adopts the following Guidelines that will be applicable with respect to the use, awarding monitoring and reporting of all Property Disposition Contracts that are entered into by BURA as of September 1, 2007.

ARTICLE I DEFINITIONS

For purposes of the Guidelines, unless a different meaning is required by the context:

1. "Contracting Officer" shall mean the employee of BURA who shall be appointed by resolution of the Board Members of BURA to be responsible for the disposition of Property.
2. "Dispose" or "disposal" or "disposition" shall mean transfer of title or any other beneficial interest in personal or real property from BURA to any unrelated third party.
3. "Property" shall mean personal property in excess of Five Thousand Dollars (\$5,000.00) in value, real property, and any other legally transferable interest in such property, to the extent that such interest may be conveyed to another person for an) purpose, excluding an interest securing a loan or other financial obligation of another party.
4. "Property Disposition Contracts" shall mean written agreements for the sale, lease, transfer or other disposition of Property from BURA to any unrelated third party.
5. "Real Property" shall mean real property and interests therein.

ARTICLE II APPOINTMENT AND DUTIES IF CONTRACTING OFFICER

A. APPOINTMENT

The Contracting Officer shall be the BURA Manager of Commercial Real Estate, or equivalent title or, if the position in BURA is vacant, an employee of BURA appointed by Members of the Board. The Contracting Officer shall be responsible for the supervision and direction over the custody, control and disposition of Property and responsible for BURA's compliance with and enforcement of these Guidelines.

B. DUTIES

The duties of the Contracting Officer shall include the following:

1. Maintaining adequate inventory controls and accountability systems for all Property under BURA's control.
2. Periodically conducting an inventory of Property to determine which Property may be disposed of.
3. Preparing an annual written report of all Property. Each report shall include a listing of all Real Property held by BURA, a full description of all real and personal property disposed of during the reporting period, the price received and the name of the purchaser for all such Property sold during each reporting period of each report shall be completed and delivered to the New York State Comptroller, the Director of the Budget, the Commissioner of General Services and the New York State Legislature no later than ninety (90) days following the completion of BURA's fiscal year.
4. Disposing of Property as promptly as possible in accordance with these guidelines as directed by BURA.

ARTICLE III PROPERTY DISPOSITION REQUIREMENTS

A. METHOD OF DISPOSITION

Subject to such exceptions and/or requirements set forth in these Guidelines, in the event that BURA determines to dispose of any of its Property, BURA shall endeavor to dispose of such Property for at least the fair market value of the Property. The disposition of Property may be made by sale, exchange, or transfer, for cash, credit or other Property, with or without warranty, and upon such terms and conditions as are determined by BURA, to be appropriate and reasonable and consistent with these Guidelines.

B. AWARD AND APPROVAL OF PROPERTY DISPOSITION CONTRACTS

1. COMPLIANCE WITH GUIDELINES; APPROVAL REQUIREMENTS

All dispositions of Property shall be conducted in accordance with these Guidelines by or under the supervision of the Contracting Officer. Any proposed dispositions of Property subject to these Guidelines shall be presented to the BURA Board or, if so established, the duly designated BURA committee, for consideration. If approved by a duly designated committee of BURA, the matter shall be submitted to the BURA Board for approval or other appropriate action.

2. DISPOSITION BY PUBLIC BID

- (a) All Property Disposition Contracts shall be made only after publicly advertising for bids, unless the criteria set forth in Article III (B)(3) below has been satisfied for such contracts to be made by negotiation or public auction.
- (b) Whenever public advertising for bids is required, (i) the advertisement for bids shall be made at such time prior to the disposal or contract through such methods, and on such

terms and conditions, as shall permit full and free competition consistent with the value and nature of the Property; (ii) all bids shall be publicly disclosed at the time and place stated in the advertisement; and (iii) the award shall be made with reasonable promptness by notice to the responsible bidder whose bid conforming to the invitation for bids, will be most advantageous to BURA and New York State, price and other factors considered.

- (c) Any public bid for the disposition of Property may be rejected, refused, or declined by BURA or the Contracting Officer on any basis or grounds allowable at law.

3. DISPOSITION BY NEGOTIATED SALE/PUBLIC AUCTION

The following dispositions are exempt and excepted from the public bidding requirements set forth above in Article III (B)2 (Disposition by Public Bid), and may be consummated through a negotiated sale or by public auction:

- (a) Disposition for a public purpose: BURA may dispose of Property for less than fair market value of the Property where the disposition of such Property is intended to further the public health, safety or welfare or an economic development interest of New York State or a political subdivision thereof (hereinafter, a "Public Purpose"). Such Public Purpose may include but shall not be limited to:
 - (i) the furtherance of applicable or governing zoning plans, comprehensive plans, regional plans, or urban renewal plans approved for or related to the Property;
 - (ii) the creation or retention of a substantial number of job opportunities, or the creation or retention of a substantial source of revenues;
 - (iii) the prevention or remediation of a significant threat to the environment or public health or safety; or
 - (iv) such other Public Purpose as may be documented in writing and approved by resolution of the BURA Board.
- (b) Disposition of certain Personal Property: BURA may dispose of personal property where such personal property is of a nature and quantity which, if it were to be disposed of through public advertisement and bidding, would adversely affect the state or local market for such personal property.
- (c) Disposition of Low FMV property: BURA may dispose of Property, the fair market value of which does not exceed Fifteen thousand Dollars (\$15,000).
- (d) Disposition Following Receipt of Unacceptable Bid Prices: BURA may dispose of Property where the bid prices received by BURA after public advertising are not commercially reasonable (either as to all or some part of the Property) as determined by BURA in its sole discretion.
- (e) Disposition to New York State: BURA may dispose of Property to New York State or any political subdivision of New York State.
- (f) Disposition Authorized by Law: BURA may dispose of Property where such disposition is otherwise authorized by Law including to public benefit corporations and not-for-profit economic development corporations.

- 4. Reporting Requirements Regarding Negotiated Dispositions**
- (a) Preparation of Written Statements: The Contracting Officer shall prepare a written statement explaining the circumstances of each negotiated disposition of Property pursuant to Article III (B)(3) involving any of the following:
- (i) the negotiated disposition of personal property which has an estimated fair market value in excess of Fifteen Thousand Dollars (\$15,000.00);
 - (ii) the negotiated disposition of Real Property that has an estimated fair market value in excess of One Hundred Thousand Dollars (\$100,000.00); and
 - (iii) the negotiated disposition of Real Property that will be disposed of by lease for a term of five years or less, if the estimated fair annual rent is in excess of One Hundred Thousand Dollars (\$100,000.00) for any of such years.
- (b) Submission of written statements. Written statements prepared pursuant to this Section Article III (B)(4) shall be submitted to the New York State Comptroller, the Director of the Budget, the Commissioner of General Services, and the State Legislature not less than ninety (90) days prior to the date on which the disposition of Property is expected to take place. The Contracting Officer shall maintain a copy of all written statements at BURA's principal office.

ARTICLE IV GENERAL PROVISIONS

A. ANNUAL REVIEW AND SUBMISSION OF GUIDELINES

These Guidelines shall be annually reviewed and approved by the BURA Board. On or before the 31st day of March of each year, BURA shall file with the New York State Comptroller a copy of the most recently reviewed and adopted guidelines, including the name of the Contracting Officer, and, to the extent practicable, shall post the guidelines on BURA's website. Guidelines posted on BURA's website shall be maintained at least until the procurement guidelines for the following year are posted on BURA's website.

B. EFFECT OF AWARDED CONTRACTS

These Guidelines are intended for the guidance of the officers, members and employees of BURA only. Nothing contained herein is intended or shall be construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under, or by reason of, any requirement or provision hereof, or be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, these Guidelines. Without limiting the generality of the preceding sentence, any deed, bill of sale, lease, or other instrument executed by or on behalf of BURA, purporting to transfer title or any other interest in Property shall be conclusive evidence of compliance with these Guidelines insofar as concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of compliance with these Guidelines prior to the closing.